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CONVENTION ON JURISDICTIONAL IMMUNITIES OF STATES AND THEIR PROPERTY

Report of the Sixth Committee

Rapporteur: Mr. Oleksandr F. MOTSYK (Ukraine)

I. INTRODUCTION

1. The item entitled "Convention on jurisdictional immunities of States and their property" was included in the provisional agenda of the forty-eighth session of the General Assembly pursuant to paragraph (c) of Assembly decision 47/414 of 25 November 1992.

2. At its 3rd plenary meeting, on 24 September 1993, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it chapter II of the report of the International Law Commission on the work of its forty-third session, 1/ which contained the draft articles on jurisdictional immunities of States and their property, adopted at that session by the Commission. It also had before it the following documents:

(a) Note verbale dated 12 August 1993 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General (A/48/313);

(b) Note verbale dated 30 September 1993 from the Permanent Representative of Japan to the United Nations addressed to the Secretary-General (A/48/464);

(c) Note verbale dated 6 October 1993 from the Permanent Mission of Bulgaria to the United Nations addressed to the Secretary-General (A/C.6/48/3).

1/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10 (A/46/10).

4. At its 2nd meeting, on 24 September, the Sixth Committee, in accordance with General Assembly decision 47/414, re-established the Working Group it had established at its forty-seventh session to deal with the item. In pursuance of decision 47/414, the Working Group was to continue consideration of: (a) issues of substance arising out of the draft articles on jurisdictional immunities of States and their property, adopted by the International Law Commission at its forty-third session; and (b) the question of the convening of an international conference, to be held in 1994 or subsequently, to conclude a convention on jurisdictional immunities of States and their property, in order to facilitate the successful conclusion of a convention through the promotion of general agreement, on the understanding that two weeks, starting from 27 September, would be devoted at the beginning of the forty-eighth session to concentrated work, during at least 10 to 12 meetings, in the Working Group.

5. Also at its 2nd meeting, the Sixth Committee re-elected Mr. Carlos Calero-Rodrigues (Brazil) Chairman of the Working Group.

6. The Working Group held 14 meetings between 27 September and 8 October.

7. At the 29th meeting of the Sixth Committee, on 15 November, the Chairman of the Working Group introduced the report of the Working Group (A/C.6/48/L.4 and Corr.2).

8. The Sixth Committee considered the item, as well as the report of the Working Group, at its 29th meeting, on 15 November. The summary record of that meeting contains the views of the delegations that spoke during the consideration of the item (see A/C.6/48/SR.29).

II. CONSIDERATION OF DRAFT DECISION A/C.6/48/L.5

9. At the 29th meeting, on 15 November, the Chairman of the Working Group introduced a draft decision entitled "Convention on jurisdictional immunities of States and their property" (A/C.6/48/L.5).

10. At the same meeting, the Commission adopted draft decision A/C.6/48/L.5 without a vote (see para. 12).

11. A statement in explanation of position was made by the representative of Austria (see A/C.6/48/SR.29).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

12. The Sixth Committee recommends to the General Assembly the adoption of the following draft decision:

Convention on jurisdictional immunities of States and their property

The General Assembly:

(a) Takes note of the report of the Working Group 2/ established by the General Assembly in its resolution 46/55 of 9 December 1991 and reconvened pursuant to General Assembly decision 47/414 of 25 November 1992 to consider:

(i) Issues of substance arising out of the draft articles on jurisdictional immunities of States and their property, adopted by the International Law Commission at its forty-third session; 3/

(ii) The question of the convening of an international conference, to be held in 1994 or subsequently, to conclude a convention on jurisdictional immunities of States and their property;

(b) Decides that consultations shall be held in the framework of the Sixth Committee during one week at the beginning of its forty-ninth session, namely, from 26 to 30 September 1994, to continue consideration of the substantive issues regarding which the identification and attenuation of differences is desirable in order to facilitate the successful conclusion of a convention through general agreement;

(c) Also decides that, at its forty-ninth session, in the light of the progress thus far achieved and of the results of the consultations mentioned above, it will give full consideration to the recommendation of the International Law Commission that an international conference of plenipotentiaries be convened to examine the articles on the jurisdictional immunities of States and their property and to conclude a convention on the subject; 4/

(d) Further decides to include in the provisional agenda of its forty-ninth session the item entitled "Convention on jurisdictional immunities of States and their property".

2/ A/C.6/48/L.4 and Corr.2.

3/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10 (A/46/10), chap. II, sect. D.

4/ Ibid., sect. B, para. 25.